IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 124 OF 2006

IN

WRIT PETITION NO. 287 OF 1995

HINDUSTAN LEVER EMPLOYEES
UNION ..PETITIONERS

V/S

M/S. HINDUSTAN LEVER LTD.
& OTHERS. ..RESPONDENTS

MR. K.K. SINGHVI, SR. COUNSEL WITH MS. MEENA DOSHI FOR THE PETITIONERS.
MR. MUKUL ROHTGI, SR. COUNSEL WITH MR. P.K. RELE, SR. ADVOCATE WITH RUBY SINGH & R.P. RELE I/B MR. PIYUSH SHAH FOR RESPONDENT NO. 1.
MR. C. J. SAWANT, SR. COUNSEL WITH MR. TAYDE FOR RESPONDENT NOS. 2 TO 7.
MR. C.U. SINGH, SR. COUNSEL, WITH MR. SANJAY UDESHI WITH MR. MAHESH LONDHE I/B SANJAY UDESHI & CO. FOR RESPONDENT NOS. 8 TO 10.

CORAM: S.K.SHAH,J.

DATE : 21st December,2006.

P.C.

1. Heard learned counsel on both sides. The contempt is directed against the order of the Industrial

Court which is confirmed by the Supreme Court. The relevant order of the Industrial Court runs as under:-

> "(i) Complaint is allowed.
>
> (ii) It is hereby declared that the Respondents have committed an unfair labour practice under item 9 of Sch. IV of MRTU & PULP Act, 1971. They should cease and desist from engaging in the said unfair labour practice.
>
> (iii) It is further declared that discontinuation of lines in Hard Soaps Department, a Section of Toilet Soaps Departments, Printing Department and the closure of E.P.C. (Machine Building) Department and the Sulphanation Department, is illegal.
>
> (iv) The Respondent's are further directed to not to close down the Departments or redeploy the workmen without following due process of law."

2. This order came to be passed on 5-1-1995. There is no dispute that this order was challenged before the Single Judge of this court wherein the Writ Petition was

dismissed. The order of Single Judge was challenged by

way of Appeal before the Division Bench of this court. The Division Bench also rejected the Appeal. Then matter was taken to the Supreme Court and the Supreme Court on 13-12-2005 passed the following order :-

> " We do not entertain the special leave petition in view of the concurrent finding of fact that the petitioner had in fact acted in contravention of Section 9A of the Industrial Disputes Act, 1947. However, it will be open to the petitioner to take recourse to such other measures as may be open to the petitioner in accordance with law.
>
> The special leave petition is disposed of."

3. This Order was passed on 13-12-2005.

4. The allegations of the petitioners is that the order of the Industrial Court which was passed on 5-1-1995 has not been complied with. The said order of the Industrial Court was confirmed by the Supreme Court by aforesaid order.

5. The learned counsel for the petitioners further

submit that now the Unit has been transferred by Hindustan Lever Ltd. to M/s. Bon Ltd. and

subsequently M/s. Bon Ltd. has obtained the order of closure of entire unit and that order was passed by the Government on 26-7-2006. The contention of the learned counsel for the petitioners is that the order of the Industrial Court has been violated and therefore the action should be initiated against the Respondents.

6. As against this, the learned counsel for the Respondents submit that there was no specific order of the Industrial Court to re-start the Unit. It is also submitted on behalf of the Respondents that the Supreme Court passed order that it will be open to the petitioner to take appropriate measures in accordance with law. Accordingly the transfer of the Unit was made in favour of M/s. Bon Ltd. Thereafter, M/s. Bon Ltd. moved the Government for closure and the closure has been granted.

7. It is undisputed that the said order was challenged wherein this court directed that the parties to make a reference before the Tribunal and accordingly a reference has been filed. It is further undisputed that in the Reference filed before Industrial Tribunal there is no order to stay the operation of the closure.

8. As could be seen that the transfer of the Unit by Hindustan Lever Ltd. to M/s. Bon Ltd. was also

challenged before the Labour Court and the Labour Court refused to grant the interim relief and therefore the matter was taken to the Industrial Tribunal and the proceeding challenging the order is still pending before the Industrial Tribunal.

9. It is thereafter the said M/s. Bon Ltd. has moved the Government for grant of permission for closure. That was granted by the Government on 26-7-2006. In fact the closure was rejected by the authority and Review Application was filed and in Review Application the order for closure was passed on 26-7-2006.

10. Under these circumstances, it appears that the Respondents had adopted legal proceedings for transfer and closure of the entire unit and that is permitted by the Government. It is true that the closure is challenged by the Petitioners before Industrial Tribunal but no stay of the operation of the order of the closure is obtained. Therefore, whether the closure is legal or otherwise is to be decided by the Industrial Tribunal.

11. The learned counsel for the Respondents state that

the entire Unit has been closed and the labourers have been paid closure compensation.

12. Therefore, the question would be whether this amounts to contempt of the order passed by the Industrial Court. To my mind it was open for the Respondents to take legal recourse. Although it is a subject matter of challenge before the appropriate court, the fact remains that the transfer has been actually effected and closure has also been effected and this was done by following the due process of law as stated above and the legality of their action is still under consideration of the court.

13. Under these circumstances, I do not find that the action taken by the Respondents is with a view to disobey or in violation of the orders of the Industrial Court. It is pertinent to note that the Respondents have taken part in all the legal proceedings for transfer as well as closure.

14. Under the circumstances, I do not find any merit in the contempt petition. The contempt petition is, therefore, dismissed.

(S.K.SHAH,J.)